

# **EXHIBIT 5**

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----  
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**  
5 **individually and on behalf of a class of**  
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.  
11 -----

12 **DEPOSITION OF DANIEL DERENDA**

13 **Taken pursuant to Rule 30(b)(6)**

14 **of the Federal Rules of Civil Procedure**

15 **APPEARING REMOTELY FROM**

16 **BUFFALO, NEW YORK**

17 **(ATTORNEYS' EYES ONLY PAGES 138 - 142)**

18 **January 23rd, 2024**

19 **At 9:30 a.m.**

20 **Pursuant to notice**

21 **REPORTED BY:**

22 **Rebecca L. DiBello, RPR, CSR(NY)**  
23

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—DANIEL DERENDA—

1 matter in details of conversations that  
2 happened with counsel. So you can answer that  
3 limited question.

4 A. I don't recall exactly what he would have  
5 educated me on the section.

6 Q. Okay. So let's turn to the Strike Force. The  
7 Strike Force was created during your time as  
8 BPD commissioner, correct?

9 A. Correct.

10 Q. With your approval?

11 A. Yes.

12 Q. What year was the Strike Force created, to  
13 your recollection?

14 A. 2013.

15 Q. And the Strike Force began as a detail and  
16 then became a permanent unit of the BPD,  
17 correct?

18 A. It became -- I don't recall if it started as a  
19 detail or not, but it was posted for a  
20 permanent unit I believe in March of 2013.

21 Q. Okay.

22 A. Again, I might be off on the date.

23 Q. And the mission of the Strike Force was to

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1 target guns, drugs and crime, correct?

2 MR. SAHASRABUDHE: Objection as to form.

3 You may answer.

4 A. The mission of the Strike Force was to target  
5 violent crime in crime hot spots. It's listed  
6 on the posting.

7 Q. Okay. And also gangs?

8 MR. SAHASRABUDHE: Objection as to form.

9 A. It would target violent crime, period. It  
10 could include gang members, yes, and all  
11 crimes, all violent crime and crime hot spots.

12 Q. Okay. There was also an explicit mission to  
13 remove illegal guns from the streets, correct?

14 A. That is part of the function of all patrol  
15 officers and officers out there, to remove  
16 guns, yes, correct.

17 Q. But that was also a stated objective of the  
18 Strike Force per its mission statement?

19 A. I don't believe that was in the posting.

20 Q. I'd like to mark as the third exhibit for this  
21 deposition a document that was produced in  
22 discovery as COB 060319. It was also the  
23 first exhibit in your non 30(b)(6) deposition.

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1 Are you able to see that on your screen,  
2 Mr. Derenda?

3 A. Yes.

4 Q. Okay. Do you recognize this document?

5 A. I do.

6 Q. Is this the official mission statement of the  
7 Strike Force?

8 A. I believe -- yeah, there was a posting. I  
9 believe that was the mission statement,  
10 correct.

11 Q. It's actually a mission statement that you  
12 helped prepare?

13 A. I probably prepared it.

14 Q. And it accurately describes the mission of the  
15 Strike Force?

16 A. Target and eliminate criminal hot spots  
17 throughout the city. Yes. Guns, zero  
18 tolerance crime policy. Yes.

19 Q. So to ask my question again, one of the stated  
20 purposes of the Strike Force was to remove  
21 illegal guns from the streets of Buffalo,  
22 correct?

23 A. Under the mission statement, correct.

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1 Q. Now, traffic safety was not listed as one of  
2 the four missions of the Strike Force on the  
3 mission statement, correct?

4 A. It's not listed on this mission statement.

5 Q. Okay. Now, let's turn to the activities the  
6 Strike Force engaged in while it was in  
7 existence. Once established the Strike Force  
8 was designed to target patrol areas, correct?

9 MR. SAHASRABUDHE: Objection to form.  
10 Can you restate?

11 Q. Once established the Strike Force had assigned  
12 patrol areas, correct?

13 A. They had assigned areas, correct.

14 Q. Areas that were referred to as patrols?

15 MR. SAHASRABUDHE: Objection as to form.

16 A. I'm not understanding.

17 Q. Did you call the areas that the Strike Force  
18 was assigned to patrol locations or patrol  
19 areas?

20 A. Areas. Like they were by number.

21 Q. Okay. And the majority of the patrol areas  
22 were on the East Side?

23 A. I believe it broke down the city by different

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1 A. I would be copied on a daily Strike Force  
2 report so, yes, I would review those reports  
3 periodically, so I would have been made aware  
4 of.

5 Q. Okay. And if you had concerns or objections  
6 to the patrol locations you could have voiced  
7 those concerns, correct?

8 MR. SAHASRABUDHE: Objection to form.

9 A. Yes.

10 Q. Did you ever?

11 A. I don't recall.

12 Q. And there were others in the BPD who received  
13 Strike Force daily reports, correct?

14 A. It would be -- yes, that's correct.

15 Q. Who were those individuals by job title?

16 A. I don't remember the total who would be on it,  
17 but it would be district chiefs at the time.  
18 The deputy commissioners would receive it. I  
19 would receive it. Strike Force lieutenants  
20 would receive it. Captains, all chiefs. That  
21 would probably be the chain. I don't recall  
22 exactly who would be on that chain.

23 Q. Okay.

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1 A. I didn't educate myself on that prior to.

2 Q. But in any event, members of BPD's leadership  
3 including the commissioner received the daily  
4 reports?

5 A. Yes.

6 Q. What was the function of the Strike Force  
7 daily reports?

8 A. Of the daily reports?

9 Q. Yes.

10 A. To know what was being done. My philosophy is  
11 what gets measured gets done.

12 Q. So as commissioner you were briefed on a daily  
13 basis about the Strike Force's activities in  
14 the City of Buffalo, correct?

15 A. I was sent a daily report. Whether I read it  
16 daily or not, sometimes, sometimes not.

17 Q. Okay. But you were nonetheless given notice  
18 about the activities the Strike Force was  
19 engaged in in the City of Buffalo?

20 MR. SAHASRABUDHE: Objection as to form.

21 A. I was sent the daily report.

22 Q. Okay. And that was a practice that was  
23 instituted during your time as commissioner of

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1 MS. EZIE: Okay. I'm just making a  
2 record.

3 Q. Now, the primary focus of the Housing Unit was  
4 crime prevention, correct?

5 A. In and around the housing complexes.

6 Q. So the primary focus of the Housing Unit was  
7 crime prevention in and around BMHA housing  
8 units?

9 A. In and around the complexes. They were to  
10 patrol those areas.

11 Q. And by housing complexes you mean Buffalo  
12 Municipal Housing Authority complexes or BMHA  
13 property?

14 A. Right.

15 Q. Their patrol zone was not just limited to the  
16 units, but included the surrounding areas?

17 A. They would be patrolling the units and the  
18 surrounding areas, correct.

19 Q. Up to about half a mile circumference around  
20 the properties?

21 MR. SAHASRABUDHE: Objection as to form.

22 A. I don't think we ever put a limit on how far  
23 away they could patrol. Again, they would go

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1 to and from so, again, I don't ever remember a  
2 number being placed on that.

3 Q. Okay. So during the time that you were  
4 commissioner they were authorized to patrol  
5 the housing complexes as well as any of the  
6 neighborhoods that they passed through on  
7 their way to the housing complexes?

8 A. They would have city-wide jurisdiction,  
9 correct.

10 Q. Okay. And in addition to crime prevention  
11 their focus was drug interdiction, correct?

12 A. Their focus was being police officers and  
13 enforcing all laws.

14 Q. Okay. But they still were subject to a  
15 contract with the BMHA, correct?

16 A. There was a contract with BMHA, correct.

17 Q. And that contract indicated that their primary  
18 focuses would be criminal investigations and  
19 drug interdiction, correct?

20 A. Their primary focus would be crime. I don't  
21 have the contract. I did not review the  
22 contract prior to this meeting. It wasn't one  
23 of the stated topics, but their objective

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1           whether it was Housing, whether it was  
2           individual district details, they were all  
3           made to do daily reports that I would have  
4           been copied on.

5           Q. Okay. And so as commissioner you were made  
6           aware of the Housing Unit's patrol location?

7           A. I would have been sent a copy of the report  
8           which would have made me aware had I read the  
9           report.

10          Q. Okay. Why was that a practice of the BPD?

11          A. I don't understand. Why was it a practice to  
12          have the reports?

13          Q. Yes.

14          A. What gets measured gets done. I want to know  
15          people are out there working doing what  
16          they're supposed to be doing. I always liked  
17          to keep a handle on what was going on  
18          throughout the city.

19                 Again, I had numerous reports just about  
20          for every detail. Every unit would send  
21          reports and, again, did I read all of them?

22          No. Did I go through them? Yes.

23          Q. What else was contained on these daily reports

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1           besides patrol locations?

2           A. Probably would be the number of arrests, the  
3           number of summonses, any parking tickets, any  
4           city ordinance tickets. Just numbers in  
5           general. Anything that happened that night of  
6           interest, special interest, guns recovered,  
7           whatever. It would be a report to know what  
8           happened that night within the unit or detail.

9           Q. Okay. And as you testified, BPD commissioner  
10          -- the BPD commissioner received these  
11          reports, correct?

12          A. Yes.

13          Q. Who else in BPD leadership received these  
14          reports?

15          A. It would be the same chain of command, whether  
16          it was detail reports, Strike Force reports,  
17          the deputy commissioners, the commissioners,  
18          the chiefs received the reports because  
19          whether it was Strike Force or Housing, it  
20          could have been something taking place in  
21          their district, the district chiefs, and then  
22          the leadership of the units.

23          Q. Okay. Now, the Strike Force was disbanded in

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1 quote unquote. In speaking to Gramaglia and  
2 the other individuals, they didn't recall the  
3 term either.

4 Q. Okay. We'll get to that momentarily, but is  
5 your indication that you are more or less  
6 relying on personal knowledge for Topic 3  
7 because the person you contacted did not have  
8 information pertinent?

9 A. No. I'm not saying they didn't have  
10 information for that, but the use of traffic  
11 enforcement is general. Like I can answer  
12 that from personal knowledge on what I believe  
13 why we did traffic enforcement.

14 Q. Okay. Okay. So let's again -- so once the  
15 Strike Force was established it began  
16 operating checkpoints, correct?

17 A. At some point it operated checkpoints,  
18 correct.

19 Q. The Strike Force after establishment also  
20 began engaging in traffic enforcement?

21 A. No. The Strike Force would -- traffic  
22 enforcement would be part of their job just  
23 like any other patrol units that do patrol.

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1           Whether district patrols, housing patrols,  
2           Strike Force patrols, traffic enforcement is  
3           part of their patrols and in general as to  
4           Topic 3, traffic enforcement to me is part of  
5           proactive policing, part of the mayor's zero  
6           tolerance crime policy and part of high  
7           visibility and I believe being out there  
8           enforcing all laws, be it traffic, be it Penal  
9           Law, whatever, is part of their job.

10          Q. Okay. And Mr. Derenda, are you reading from  
11           something in front of you?

12          A. I am not. The only thing I have in front of  
13           me are the topics that you have.

14          Q. Okay. So you said a lot there, but I just  
15           want to confirm that we have agreement that  
16           the Strike Force during its period of  
17           operation engaged in traffic enforcement,  
18           correct?

19          A. Yes.

20          Q. And it also operated checkpoints, correct?

21          A. Correct.

22          Q. Now, the Strike Force operated checkpoints as  
23           part of the mayor's plan to deal with gang and

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1 chief and/or the captains, but most likely  
2 communicated to the chiefs.

3 Q. And when the Strike Force operated checkpoints  
4 it was part of the mayor's plan to deal with  
5 gang and gun violence, correct?

6 MR. SAHASRABUDHE: Objection as to form.  
7 Asked and answered. Go ahead.

8 A. The mayor's zero tolerance crime policy was to  
9 go after all crime, period, separate from the  
10 Strike Force. Part of the Strike Force in my  
11 opinion was implementing zero tolerance crime  
12 policy on all, whether it's traffic tickets,  
13 whether it's city ordinances, whether it's any  
14 crime it's part of the zero tolerance crime  
15 policy.

16 Q. Okay. And during your time as commissioner  
17 there was such a thing as the plan to address  
18 gang and gun violence, correct?

19 MR. SAHASRABUDHE: Object to the form of  
20 the question. Go ahead.

21 A. Possibly, but I don't recall any specifics at  
22 this point, but yes, we did want to address  
23 gang and gun violence, yes.

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1           this grant which the officers would have  
2           performed.

3           Q. Thank you.

4                       Now, moving on, when the Strike Force  
5           operated checkpoints they received assistance  
6           at times from the Housing Unit, correct?

7           A. Correct.

8           Q. The Strike Force and Housing Unit also engaged  
9           in traffic enforcement outside of checkpoints,  
10          correct?

11          A. It would be part of their duties on patrol to  
12          enforce traffic, correct.

13          Q. So they engaged in these activities with your  
14          knowledge and permission?

15          A. Yes.

16          Q. Including on the East Side?

17          A. Including all parts of the City of Buffalo.

18          Q. And that includes the East Side?

19          A. Correct.

20          Q. Now, as BPD commissioner you participated in  
21          the decision to deploy the Strike Force for  
22          use in traffic enforcement, correct?

23                       MR. SAHASRABUDHE: Objection as to form.

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1       A. As I stated, traffic enforcement was a  
2       function of all patrol units including the  
3       Strike Force, housing district patrols,  
4       traffic patrols, whatever. It's part of their  
5       daily job for any officer out doing patrol.

6       Q. So they engage in these activities with your  
7       knowledge and approval, correct?

8       A. Correct.

9       Q. The checkpoints -- the Strike Force and  
10       Housing Unit also participated in checkpoints  
11       with your knowledge and approval?

12               MR. SAHASRABUDHE: Objection to form. I  
13       think he's already told you they did. Go  
14       ahead.

15       A. Yes.

16       Q. Now, did the mayor play any role in the  
17       decision to deploy the Strike Force and  
18       Housing Unit to engage in checkpoint?

19               MR. SAHASRABUDHE: Objection as to form.  
20       I'm also going to state again I don't see what  
21       topic this relates to, but you can answer.

22       A. The mayor didn't play a role in our plans. He  
23       was always made aware of what we were doing.

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1           Again, the plans usually came from myself  
2           through my command staff, whatever we did.

3           Q. But you notified the mayor of the decision to  
4           use -- to operate checkpoints in the City of  
5           Buffalo, correct?

6           A. I'm positive he knew we were running  
7           checkpoints in the City of Buffalo and I'm  
8           sure I told him we were doing so.

9           Q. Did the mayor ever object to your decision to  
10          operate checkpoints in the City of Buffalo?

11                   MR. SAHASRABUDHE: Objection to form.

12          A. I have no recollection of that.

13          Q. Now, as part of their work the Housing Unit  
14          engaged in traffic enforcement at or near BMHA  
15          properties, correct?

16          A. That would be correct.

17          Q. And as part of that work they stopped and  
18          questioned motorists?

19                   MR. SAHASRABUDHE: Motorists?

20          Q. Correct.

21          A. As part of their job it would be to enforce  
22          Vehicle and Traffic Law which in fact would  
23          stop motorists for whatever violation,

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1 correct.

2 Q. Housing Unit officers were also instructed to  
3 stop anyone they believed to be a gang member,  
4 correct?

5 MR. SAHASRABUDHE: Objection as to form.

6 A. I don't recall that to be correct.

7 Q. But you're aware that the Housing Unit had a  
8 Captain Serafini?

9 A. There was a Captain Serafini, correct.

10 Q. Was Captain Serafini authorized to provide  
11 instructions to Housing Unit officers during  
12 their patrols?

13 A. He was the captain in that unit. He would  
14 have the right to instruct them, correct.

15 Q. Okay. I'd like to mark as Exhibit 7 a  
16 document that was produced in discovery as COB  
17 044624.

18 MR. SAHASRABUDHE: What topic are we on  
19 right now?

20 MS. EZIE: We're on Topic 2 and 3.

21 Q. Mr. Derenda, this is a three-page memorandum  
22 that was authored by -- it's two pages and a  
23 blank page -- Captain Phillip M. Serafini of

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1 authorize this plan, correct?

2 A. Apparently, correct.

3 Q. And you gave her authorization with the  
4 exception of a request for overtime, correct?

5 A. It says okay for plan except the lieutenant on  
6 overtime. You have two lieutenants working  
7 assigned shifts, one to the detail, but not  
8 bringing one in, correct.

9 Q. For clarity, this is not describing the use of  
10 roadblocks for traffic safety, is it?

11 A. It's what she wrote. Utilize traffic and AIU  
12 to perform roadblocks for safety checks on  
13 highly travelled areas in the districts. Then  
14 she says vehicles are involved in the majority  
15 of shootings with subjects firing from moving  
16 cars. The use of roadblocks may lead to  
17 interdiction of the subjects and their  
18 weapons.

19 As I stated earlier, the purpose of  
20 roadblocks are traffic safety and high  
21 visibility and at times those roadblocks did  
22 lead to other crimes and in the directive I  
23 believe it says look for any and all

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1 violations of V&T and other laws, so at times  
2 they could have been -- you know, they could  
3 have gotten different results other than the  
4 traffic stop.

5 Q. But for clarity, during your time as  
6 commissioner you expressly approved the use of  
7 roadblocks whose primary purpose was crime  
8 interdiction, correct?

9 MR. SAHASRABUDHE: I object to the form  
10 of the question. Go ahead.

11 A. Roadblocks are for the express purpose of  
12 traffic safety and high visibility. As I  
13 stated, high visibility has an effect and the  
14 authorization of roadblocks for traffic safety  
15 and a high visibility effect has the  
16 deterrence on violent crime and other crimes  
17 in the area so, again, if they're setting up  
18 in an area -- highly traveled area with  
19 roadblocks and where there's issues of  
20 shootings going on, when they're setting up  
21 these shootings will not likely happen so,  
22 again, it's about traffic safety, secondary  
23 high visibility.

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1           are the clubhouses and their clubhouses are  
2           ones -- that doesn't mean they hang out in  
3           that area, but they do go to their clubhouses.  
4           Those are the only ones I can think of that  
5           were predominantly White.

6           Q. Thank you. Okay.

7                       So now I would like to turn back to the  
8           subject of checkpoints. You testified earlier  
9           that during your time as commissioner you  
10          aspired to have the checkpoints conducted  
11          daily in the City of Buffalo, correct?

12          A. With the Strike Force or Housing, correct.

13          Q. Okay. And that was policy that was rolled out  
14          when initially?

15          A. Probably right after the formation of the  
16          Strike Force. Whenever the Strike Force  
17          started that is when they started doing  
18          checkpoints.

19          Q. Okay. So the checkpoint program as -- the  
20          daily checkpoint program as described dates  
21          back as far as 2013 in the City of Buffalo?

22          A. Again, I'm sure there were checkpoints before  
23          that, but Strike Force used to conduct them

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1 daily or they were requested to do them daily.

2 Didn't always happen for whatever reasons.

3 Q. And so Strike Force -- the Strike Force was  
4 involved in the operation of checkpoints in  
5 2013, correct?

6 A. Yes. I believe so.

7 Q. They were involved in the operation of  
8 checkpoints in 2014?

9 A. Yes.

10 Q. 2015?

11 A. Yes.

12 Q. 2016?

13 A. Yes.

14 Q. 2017?

15 A. Yes.

16 Q. Any times after 2017?

17 A. I don't believe so.

18 Q. Okay. Was the Housing Unit involved in the  
19 operation of checkpoints in the 2013 to 2017  
20 period?

21 A. I'll make the assumption, yes.

22 Q. Has the BPD conducted any checkpoints since  
23 the Strike Force's dissolution?

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1 MR. SAHASRABUDHE: Form.

2 A. When it was necessary when it should be done,  
3 yes.

4 Q. While operating checkpoints, correct?

5 A. While operating checkpoints they should  
6 enforce all the V&T rules, all laws and it  
7 should be done on every vehicle that comes  
8 through so everybody is treated equally.

9 Q. Okay. So conducting impounds was part of the  
10 expected role of officers operating at Strike  
11 Force checkpoints?

12 MR. SAHASRABUDHE: Objection to form.

13 A. It wasn't expected, but if they impound the  
14 vehicle it would be part of what they did for  
15 various reasons through the checkpoint.

16 Q. It's something that you tracked as far as data  
17 is concerned?

18 A. I believe they might have put down the number  
19 of impounds on the report. I don't recall  
20 exactly, but they would track all the numbers  
21 whether it was traffic summonses, number of  
22 misdemeanor arrests, felony arrests, guns  
23 recovered. There might have been impounds on

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1           and every car you see is going over 30 miles  
2           an hour. So if they were out there eight  
3           hours and they wrote no tickets they weren't  
4           trying very hard and I would address  
5           situations like that with the chief.

6           Q. And so it was your practice to give feedback  
7           on the production of the Strike Force and  
8           Housing Unit?

9           A. Correct.

10          Q. And it was your practice to complain if  
11          production was ever too low, correct?

12                   MR. SAHASRABUDHE: Objection as to form.  
13          Go ahead.

14          A. I would want to know -- there would be reasons  
15          at times why they weren't -- maybe they didn't  
16          have the manpower. Maybe they were doing  
17          something different than their normal duties  
18          so, again, we keep track and make sure people  
19          were doing what they were being paid to do.

20          Q. But you would notify the command if you  
21          thought the numbers were not good, correct?

22          A. I'm positive I did that on probably more than  
23          one occasion.

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1 proceed on all of the above.

2 Q. Would you expect that BPD chiefs would be  
3 aware of those legal requirements?

4 A. Yes, I do. I would expect they would be.

5 Q. Does it concern you that chiefs gave  
6 instructions to officers contrary to those  
7 legal requirements?

8 MR. SAHASRABUDHE: Objection to form.

9 A. I'd have to see when it happened. Again, I  
10 don't know. I don't know what you're talking  
11 about so I really can't answer on that.

12 Q. Okay. You also during your time as  
13 commissioner instructed BPD officers engaged  
14 in traffic enforcement to make arrests and  
15 write traffic summonses as much as possible,  
16 correct?

17 MR. SAHASRABUDHE: Objection as to form.

18 A. Actually, that's on the directive to write as  
19 many tickets and violations as you see. We'll  
20 go back to the checkpoints for a minute.  
21 They're supposed to tag every violation that  
22 they see and make every arrest for every  
23 violation of the criminal, or whatever.

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1           Again, you can't -- you see one person  
2           not wearing a seatbelt, he should get a tag  
3           just like every other person coming through  
4           that checkpoint.

5           I encouraged them to be proactive,  
6           especially on the checkpoint situation that  
7           they weren't given a choice but to write as  
8           many tickets as possible based on what they  
9           see and to treat everybody the same.

10       Q. Is that departmental policy?

11       A. That was on a checkpoint directive to tag  
12       every violation they see was because I don't  
13       want motorist A to be treated any different  
14       than motorist B, so I wrote one ticket for  
15       motorist A when he had four violations, but on  
16       motorist B I wrote five violation tickets, but  
17       not the same.

18           I wanted everybody treated the same,  
19       tagged for every violation that came through.

20       Q. So your testimony is that you wanted all  
21       motorists in the City of Buffalo to be treated  
22       the same with respect to traffic enforcement?

23       A. Correct.

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1 Q. So during your time as commissioner did you  
2 ever have a policy requiring that if the  
3 Strike Force performed four checkpoints or  
4 five checkpoints that they would be in each of  
5 the five police districts in the City of  
6 Buffalo?

7 A. I don't believe that was the case at all. We  
8 moved them around. Again, over the years  
9 different people had input on where they went,  
10 but there was no keeping track of I did one in  
11 A, I did one in B, I did one C, D and E. I  
12 don't believe that took place, no.

13 Q. Why not?

14 A. Again, a lot of the checkpoints were done for  
15 convenience of where they were assigned so it  
16 made it easier for them to setup where they  
17 were as opposed to moving to the other side of  
18 the city.

19 Again, it was about traffic safety. It  
20 was about high visibility, but at times it was  
21 easier just for them to setup wherever they  
22 were assigned.

23 Q. Are there traffic safety issues in A District?

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1 through.

2 Q. But you did not adopt a policy of ensuring  
3 that checkpoints were distributed evenly  
4 across districts in the city, correct?

5 A. Checkpoints, no, I did not. Checkpoints  
6 primarily were with Strike Force and Housing  
7 and, as I said, many times for the sake of  
8 convenience they were done in the areas that  
9 they were assigned.

10 Q. Am I correct that the Strike Force had  
11 city-wide jurisdiction?

12 A. They did.

13 Q. Am I correct that the Housing Unit has  
14 city-wide jurisdiction?

15 A. They did.

16 Q. But you did not instruct the Strike Force or  
17 Housing Unit to ensure that checkpoints took  
18 place in all neighborhoods across the City of  
19 Buffalo, correct?

20 MR. SAHASRABUDHE: Objection as to form.

21 A. Checkpoints were part of the daily duties of  
22 the Strike Force. No, I did not tell them to  
23 go to every different part. Again, they were

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1 assigned to target areas based on crime stats,  
2 based on crime issues, based on issues and for  
3 the sake of convenience I believe they did a  
4 lot of their checkpoints in those areas that  
5 they were assigned.

6 Rather than packing up, going to the  
7 other side of the city for an hour and then  
8 coming back to where they were assigned, many  
9 times I believe they did it where they were  
10 assigned.

11 Q. Is your testimony that traffic safety  
12 violations only occur in certain city  
13 neighborhoods?

14 A. No. They occur all over the city and county  
15 and everywhere else.

16 Q. So if the goal of the checkpoints is traffic  
17 safety why weren't the checkpoints  
18 administered by the Strike Force across all  
19 city neighborhoods?

20 MR. SAHASRABUDHE: Objection as to form.

21 A. They probably at one point were in all  
22 different neighborhoods. Again, breaking it  
23 up by the numbers, I don't have the numbers,

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1 A. Correct.

2 Q. Is that a policy that was -- was that the  
3 policy of the Buffalo Police Department during  
4 your time as commissioner?

5 A. Yes.

6 Q. Was it a policy that was enforced?

7 MR. SAHASRABUDHE: Objection as to form.

8 A. Yes.

9 Q. So were all of the checkpoints operated by the  
10 Strike Force during their tenure checkpoints  
11 that were approved with the express permission  
12 of an inspector, a chief, a deputy police  
13 commissioner or the police commissioner?

14 MR. SAHASRABUDHE: Objection as to form.

15 A. It would have been all approved by me. It was  
16 part of their duties and they were expected to  
17 do it. That was what they were told to do and  
18 whether they did it on Monday, Tuesday,  
19 Wednesday and didn't do one on Friday because  
20 they didn't have the manpower, that was an  
21 expectation of what their units were supposed  
22 to do, so with the express permission they  
23 could set up a checkpoint on any given time.

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1           They had my permission to do it as part of  
2           their job duties.

3           Q. And when you refer to they you're referring to  
4           the Strike Force as well as the Housing Unit?

5           A. Correct.

6           Q. They operated checkpoints inclusive of -- they  
7           operated checkpoints with your express  
8           permission, correct?

9           A. Correct.

10          Q. And that was inclusive of the locations where  
11          they operated their checkpoints?

12          A. That would be whatever locations were  
13          determined. As I said, it was done in  
14          different ways, but they would have the  
15          ability to do that, correct.

16          Q. You had the authority as commissioner to  
17          choose checkpoint locations, correct?

18          A. Correct.

19          Q. You indicated that other individuals chose  
20          them -- chose locations as well, correct?

21          A. Correct.

22          Q. Was that pursuant to a delegation of authority  
23          -- of your authority as commissioner?

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1       A. The authority would have been delegated down  
2       to -- I believe it was stated in that section  
3       of the MOP. So an inspector who didn't talk  
4       to me could authorize a checkpoint and I would  
5       find out about it later and find out that,  
6       yes, it was authorized by an inspector for  
7       whatever reason, but as far as Strike Force  
8       and Housing, they had my express authority to  
9       setup daily checkpoints and they were expected  
10      to do so wherever possible.

11      Q. Got it.

12                   And was that authority, was that an  
13      omnibus grant of authority or did the policy  
14      require you to individually approve each and  
15      every checkpoint that was conducted?

16      A. I did not have to approve -- again, it was  
17      express authority to do checkpoints daily and  
18      the locations wasn't part of that. As I said,  
19      locations were picked for some reasons or no  
20      reasons. They were moved around for no other  
21      reason than it was convenience.

22      Q. So is your testimony that the MOP requiring  
23      authorization or permission to operate

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1           probably would have been in connection with  
2           the state police, but other than that I don't  
3           believe any checkpoints have been conducted  
4           since 2017.

5           Q. Have concerns related to traffic safety been  
6           eradicated in the City of Buffalo since 2017?

7           A. Traffic safety is always a concern in the City  
8           of Buffalo and elsewhere.

9           Q. So why haven't traffic safety checkpoints,  
10          using air quotes, for traffic safety been  
11          conducted in the City of Buffalo since 2017?

12          A. They don't have the units to do them. Again,  
13          if you don't have a unit that's not tied to  
14          the radio it's very hard to do. Within a  
15          district when people are going from call to  
16          call not likely that they'll be able to put  
17          together a checkpoint.

18                 No more Traffic Unit, no more Strike  
19          Force, no more Housing Unit and I believe even  
20          the Traffic Unit was disbanded sometime -- it  
21          might have been in 2018, so it would be very  
22          difficult to do.

23          Q. Did the Buffalo Police Department perform any

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1 analyses to determine if the checkpoint  
2 program was contributing to traffic safety  
3 during its period of operation?

4 A. We did not. Again, we didn't do evaluations  
5 on effective checkpoints. Checkpoints were  
6 part of what I wanted them to do everyday for  
7 the reason of traffic safety and high  
8 visibility. There were no evaluations done on  
9 checkpoints.

10 However, I did do evaluations on the  
11 overall effectiveness of the Strike Force and  
12 I did that by looking at crime trends and  
13 statistics and seeing where they were located  
14 and see how the numbers come down from what  
15 was going on, so if you had a series of events  
16 in an area where they were assigned and the  
17 robberies dropped for whatever reason they  
18 were there for, if the numbers went down I  
19 seen that as being effective and, as I stated  
20 earlier, at the time I was deputy commissioner  
21 to the time I left overall crime fell 40  
22 percent, so I believe we were quite effective.

23 Q. To the extent that crime fell in the City of

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1 Buffalo by 40 percent, you attribute that to  
2 the Strike Force in part?

3 A. Yeah. They're a part of it. All the  
4 different things we did. Everything from  
5 details to surveillance cameras to everything  
6 throughout the city. Every little thing we  
7 did was for the purpose of -- even block club  
8 meetings, gathering with block clubs,  
9 everything we did was for the express purpose  
10 of making the city a safer place to live, work  
11 and raise a family and I believe we  
12 accomplished that.

13 Q. To the extent that crimes in the City of  
14 Buffalo in your testimony or in your words  
15 decreased by 40 percent, do you attribute that  
16 to the Strike Force checkpoints in part?

17 A. I attribute part again to the whole --  
18 everything we did with the Strike Force.  
19 Other initiatives and checkpoints were only a  
20 small part of what the Strike Force did.

21 Q. Did you keep any measure as part of your crime  
22 statistics as to reductions in traffic safety  
23 issues in the City of Buffalo?

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1 A. I did not keep metrics on traffic safety  
2 issues.

3 Q. Why not?

4 A. Because I didn't.

5 Q. Why did you feel it was important to track  
6 traffic safety statistics if you were running  
7 a multiyear program that in your words has the  
8 focus of improving traffic safety?

9 A. We had a focus of reducing crime throughout  
10 the city which we accomplished. Traffic  
11 safety, if we came across numbers of accidents  
12 the chief said, oh, we're having numerous  
13 accidents here, we would address it with  
14 different issues.

15 We addressed speeding on the 198 when  
16 the speed limit went down, so different issues  
17 were addressed for traffic safety reasons. We  
18 didn't keep track of numbers as I do with the  
19 crime statistics that are mandated to report  
20 to the federal authorities and are published  
21 by the federal authorities.

22 Crime statistics are one thing. Traffic  
23 statistics are a different thing, but whenever

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1           we seen issues with traffic safety we would  
2           work to resolve those issues to different  
3           needs.

4           Q. Has the BPD issued any directives that  
5           prohibit the use of BPD checkpoints going  
6           forward?

7           A. There's -- not that I'm aware of that they've  
8           issued a directive that prohibits. It is  
9           still in the Manual of Procedure, but they  
10          would have to obtain permission to do so as  
11          stated in the Manual of Procedure.

12          Q. So checkpoints -- a daily checkpoint program  
13          could be re-established tomorrow provided that  
14          the chief, the commissioner, the director or  
15          the deputy police commissioner signed off,  
16          correct?

17                   MR. SAHASRABUDHE: Objection as to form.

18          A. A daily checkpoint initiative would more than  
19          likely come from the commissioner of police.  
20          If he chose to put together a unit, if he  
21          wanted to resurrect the Strike Force tomorrow,  
22          that is his prerogative. If he wanted to do  
23          daily checkpoints starting tomorrow that is

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1           his prerogative. But as of now there is no  
2           checkpoint. There is no Strike Force unit at  
3           this time.

4                   MR. SAHASRABUDHE: Can we take a  
5           five-minute break?

6                   MS. EZIE: Sure thing. Let's come back  
7           at 2:40.

8  
9                               (Recess taken.)

10  
11          Q. Now, Mr. Derenda, as part of this deposition  
12          you were asked to identify or prepare  
13          information regarding the criteria used to  
14          select checkpoints, correct?

15          A. Checkpoint locations, correct.

16          Q. Are you prepared to testify about that today?

17          A. About checkpoint locations?

18          Q. And the specific criteria?

19          A. The criteria, yes.

20          Q. And Mr. Derenda, we also asked you to prepare  
21          for Topic 11, the responses the City gave to  
22          the Buffalo Common Council, Police Advisory  
23          Board and the Attorney General's office

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1 asking me from '21 if what I said back then is  
2 consistent with what I'm saying now. This  
3 time I'm representing the City and I have had  
4 conversations with other officers and people  
5 we stated.

6 It is possible that maybe some were done  
7 for that reason. I don't know for sure. I  
8 don't recall for sure. Most of the time, as I  
9 said, they were set for convenience. It  
10 appears to be set for convenience by the -- by  
11 somebody within the Strike Force supervision  
12 of where they were assigned and I believe  
13 that's consistent with what you just read.

14 Again, they were put in certain areas.  
15 It was easier for them to do it there, but we  
16 did assign different places. Do I  
17 specifically remember a reason of why I put a  
18 checkpoint in a certain spot? I do not.

19 Q. I'll put the transcript away for now.

20 Based on your recollection and the  
21 testimony you reviewed just now and based on  
22 the preparations you took to -- you undertook  
23 to get ready for the deposition today, was it

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1 the BPD's policy to require that checkpoint  
2 locations be selected based on traffic safety  
3 data?

4 A. No. It wasn't a policy to be selected.

5 Again, it was selected for, as I said, maybe  
6 reasons or no reason other than convenience.  
7 There was no policy to setup their Strike  
8 Force checkpoint based on traffic data, no.

9 Q. Was it a policy of the BPD to require that  
10 checkpoints be selected based on the location  
11 of motor vehicle accidents?

12 A. No. It was not a requirement, no.

13 Q. Was it a policy of the BPD to require that  
14 checkpoints are selected based on the location  
15 of red light violations?

16 A. No.

17 Q. Was it a policy of the BPD to require that  
18 checkpoints be selected based on the location  
19 of stop sign violations?

20 A. No.

21 Q. Was it a policy of the BPD to require that  
22 checkpoints be selected on the basis of  
23 individuals driving without a license

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1 infraction?

2 A. No.

3 Q. Was it a policy of the BPD to require that  
4 checkpoint locations be selected on the basis  
5 of driving without a valid registration  
6 violation?

7 A. No. That wouldn't make sense. How would I  
8 know where people are driving without valid  
9 registrations?

10 Q. Okay. And was it a policy of the BPD to  
11 select checkpoint locations based on the  
12 location of where motorists were stopped for  
13 driving without valid inspection stickers?

14 A. No.

15 Q. Was it a policy of the BPD to require  
16 individuals involved in checkpoint selection  
17 to review traffic safety data before making  
18 their selection?

19 A. No.

20 Q. Was it a policy of the BPD to require  
21 individuals involved in checkpoint location  
22 selection to review 311 data concerning  
23 traffic incidents?

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—DANIEL DERENDA—

1 A. Policy, no.

2 Q. Are you aware sitting here today of any  
3 instances where checkpoint locations were  
4 selected based on the incidence of driving  
5 without a license infraction?

6 A. Again, driving without a license infraction  
7 can occur anywhere, so the answer to that is  
8 no. How would you gather data where people  
9 drive without licenses or inspections or  
10 others?

11 Q. Well, wouldn't you have ticketing information  
12 concerning where people have been ticketed for  
13 those infractions in the past?

14 A. I don't even think past would reference -- if  
15 I was driving without a license in Cheektowaga  
16 and got pulled over and got a ticket there,  
17 and then I was driving in Lancaster -- I don't  
18 how you would correlate that, but no, there  
19 was no policy.

20 Q. And you have no information to suggest that  
21 motorists drove without a license in C  
22 District more often than A District, for  
23 instance?

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1 A. No.

2 Q. You don't have any information suggesting that  
3 motorists were more likely to have an expired  
4 registration in E District over A District,  
5 for instance?

6 A. I don't know how I would have that  
7 information.

8 Q. But the BPD did have a practice of reviewing  
9 information concerning violent crime when  
10 selecting checkpoint locations, correct?

11 MR. SAHASRABUDHE: Objection as to form.

12 A. I didn't review violent crime for checkpoint  
13 locations. I reviewed crime and issues for  
14 Strike Force locations.

15 Q. And checkpoints would be set in the areas  
16 where you had identified there to be crime  
17 patterns of concern, correct?

18 MR. SAHASRABUDHE: Objection as to form.

19 A. Not always, but yes, they could have been and  
20 yes, they were at times.

21 Q. And that was in fact a policy of numerous  
22 individuals in the supervisory command in the  
23 BPD, correct?

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1 to a location where there was concerns about  
2 criminal activity?

3 A. It appears there is a location that seems to  
4 be concerned about a lot of activity including  
5 V&T issues when it specifically states this  
6 includes enforcing V&T, conducting checkpoints  
7 in the area and a general disrupting of the  
8 criminal activity which means other.

9 Q. Okay. And so as to my question, would you  
10 agree that this is an instance where the  
11 location of checkpoints was derived from  
12 reports about criminal activity in this  
13 instance taking place in the Towne Gardens  
14 area?

15 A. This is a very brief paragraph. It doesn't  
16 totally layout what was said at that meeting.  
17 Were there comments about traffic safety?  
18 Were there comments about people violating  
19 V&T, speeding, running lights? I don't know.

20 Again, I can't comment. I can't give  
21 you a full comment on one paragraph from  
22 Captain Phil Serafini that I have never seen  
23 or have any understanding of what took place

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1 at that meeting that night back in 2017.

2 Q. Are you aware that BPD officers used  
3 checkpoints -- used hot spot maps to determine  
4 the location of checkpoint locations?

5 A. Checkpoint hot spot maps?

6 Q. Hot spot maps, yes.

7 A. Hot spot maps were used for locating the  
8 Strike Force. Again, that's -- Strike Force  
9 was assigned to hot spots and violent crime  
10 issues or whatever issues. I'm not aware of  
11 any hot spot map or I don't recall any hot  
12 spot maps for, quote, checkpoints.

13 Q. I'm sorry if I misspoke. As far as the use of  
14 hot spot maps, you're aware that hot spot maps  
15 were used to at times determine where  
16 checkpoints would be located?

17 A. I have no recollection of that whatsoever.

18 Q. When Captain Serafini was giving commands to  
19 the Strike Force, Strike Force personnel, was  
20 it pursuant to authorities that he was  
21 delegated within the BPD?

22 A. He was a captain within the BPD and that was a  
23 unit he was assigned to so he would have

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1 Q. But you agree that prior versions of Strike  
2 Force checkpoint reports did not in the manner  
3 of Exhibit 23 break down traffic -- the type  
4 of traffic summons by category, correct?

5 A. I don't believe it did.

6 Q. We have been talking a bit about traffic  
7 safety enforcement. But to confirm, when you  
8 refer to the checkpoints furthering the goal  
9 of traffic safety, you're referring to the  
10 enforcement of the New York State Vehicle and  
11 Traffic Laws or VTL, correct?

12 A. Correct.

13 Q. And VTL violations, those can be criminal  
14 offenses, correct?

15 A. Aggravated unlicensed operation to some  
16 degree, yes. There could be some criminal  
17 misdemeanor charge in there. It may be --  
18 drunk driving could be a felony charge. Could  
19 be a criminal charge, yeah.

20 Q. But to confirm, the BPD did not study the  
21 impact of checkpoints on the commission of  
22 traffic safety violations within the City of  
23 Buffalo, correct?

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1 A. We did not.

2 Q. I'd like to mark this as Exhibit 25. I'd like  
3 to walk you through the response to the  
4 Buffalo City Council's information request  
5 that we received. I will go ahead and put  
6 that on my screen. This will be Exhibit 25.

7 Can you see my screen, Mr. Derenda?

8 A. Yes.

9 Q. And it says BPD checkpoint data August through  
10 September, 2017?

11 A. Yes.

12 Q. And if I scroll to the next page we see that I  
13 guess on your letterhead a dissemination to  
14 the Council -- President of the Buffalo City  
15 Council, Darius Pridgen, and to Council Member  
16 David Rivera, traffic safety checkpoint tally  
17 sheets from August 4th, 2017 to  
18 September 20th, 2017.

19 Do you see that?

20 A. I do.

21 Q. And the transmission date of this message is  
22 September 21st, 2017?

23 A. Okay.

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—DANIEL DERENDA—

1 Q. But the checkpoints were not administered in a  
2 manner where motorists who are not suspected  
3 of Vehicle and Traffic Law violations could  
4 bypass the checkpoints entirely, correct?

5 A. Correct. Everybody has to come through the  
6 checkpoint when you're in that motion and,  
7 again, there's nobody suspected of anything.  
8 They're coming through a checkpoint and  
9 they're being checked for certain things as  
10 stated.

11 Q. Now, Mr. Derenda, you're aware that the  
12 complaint in this case alleges that  
13 checkpoints were predominantly on the East  
14 Side between 2013 and the conclusion of the  
15 program in 2017, correct?

16 A. I believe that to be correct.

17 Q. Are you aware of any information that  
18 disproves the allegation that checkpoints were  
19 predominantly on the East Side during the  
20 period of the Strike Force's operation of that  
21 checkpoint?

22 A. I'm not aware of the actual breakdown of where  
23 the checkpoints were and what percentage, so

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1 I'm not aware of anything disputing what  
2 you're saying.

3 Q. Okay. And in preparing for this deposition  
4 you did not undertake any review of checkpoint  
5 locations?

6 A. I did not.

7 Q. But you acknowledge receiving checkpoint  
8 locations as part of Strike Force daily  
9 reports during the time they were operating,  
10 correct?

11 A. I acknowledge receiving Strike Force reports.  
12 I don't remember if they had the locations of  
13 the checkpoints on them. I don't know that to  
14 be the case. We did daily reports and it  
15 would have the area the Strike Force was  
16 assigned to, but I do know the directives have  
17 the location of the checkpoints and I believe,  
18 if I'm not mistaken, that's where the  
19 information was retrieved on where the  
20 locations were.

21 Q. Did you have access to the checkpoint  
22 directives as commissioner?

23 A. I did not have access. Could I have had

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135 Delaware Avenue, Suite 301, Buffalo, New York 14202  
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1 STATE OF NEW YORK)

2 COUNTY OF ERIE )

3  
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary  
5 Public, in and for the County of Erie, State of  
6 New York, do hereby certify:

7 That the witness whose testimony appears  
8 hereinbefore was, before the commencement of  
9 their testimony, duly sworn to testify the  
10 truth, the whole truth and nothing but the  
11 truth; that said testimony was taken pursuant  
12 to notice at the time and place as herein set  
forth; that said testimony was taken down by me  
and thereafter transcribed into typewriting,  
and I hereby certify the foregoing testimony is  
a full, true and correct transcription of my  
shorthand notes so taken.

13  
14 I further certify that I am neither counsel  
15 for nor related to any party to said action,  
nor in anyway interested in the outcome  
thereof.

16  
17 IN WITNESS WHEREOF, I have hereunto  
18 subscribed my name and affixed my seal this  
30th day of January, 2024.

19 

20 -----  
21 Rebecca Lynne DiBello, CSR (NY)  
22 Notary Public - State of New York  
23 No. 01D14897420  
Qualified in Erie County  
My commission expires 5/11/2027

**DEPAOLO CROSBY REPORTING SERVICES, INC.**

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